

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE: §
§ CASE NO. 18-41553-BTR
§
ILIR MURATI, §
§
§ CHAPTER 13
§
DEBTOR §
§
§

**AGREED MOTION CONDITIONING AUTOMATIC STAY FILED BY 360 SMART
CAR, INC. REGARDING 2014 AUDI Q7, OR ALTERNATIVELY, MOTION FOR
ADEQUATE PROTECTION**
(With 30 Day Waiver)

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

NOW COMES 360 Smart Car, Inc. (hereinafter “Movant” or “Smart Car”), and files this its Agreed Motion for Relief from Automatic Stay Regarding 2014 Audi Q7, Or Alternatively, Motion for Adequate Protection (the “Motion”), and in support thereof would respectfully show the Court the following:

**I.
Jurisdiction**

1. This is a proceeding under Bankruptcy Rules 4001 and 9014, seeking relief under Sections 362(d) and 1301(c) of the Bankruptcy Code. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 1334 and Sections 105 and 362 of the Bankruptcy Code. This is a core proceeding under 28 U.S.C. Section 157(b)(2)(G).

**II.
Relevant Facts**

2. Ilir Murati (“Debtor”) filed his Chapter 13 bankruptcy petition in this case on July 18, 2018 (the “Petition Date”).

3. On March 31, 2017, Debtor, as Buyer, entered into a Motor Vehicle Retail Installment Sales Contract (the “Agreement”) for the purchase of a 2014 Audi Q7, VIN # WA1DGAFE9ED002376 (the “Vehicle”). A true and correct copy of the Agreement is attached hereto as Exhibit “A.”

4. After consideration and application of Debtor’s down payment of \$8,000.00, Debtor financed the remaining purchase price of \$66,248.00, which required Debtor to make one hundred four (104) monthly payment in the amount of \$637.00 beginning on April 15, 2017.

5. Debtor granted to Movant a security interest in the Vehicle to secure payment of the indebtedness arising under the Agreement. Movant duly perfected its security interest in the Vehicle on May 2, 2017, by noting its lien interest on the face of the Vehicle’s Texas Certificate of Title.

6. As of the Petition Date, Debtor’s pre-petition arrearage arising under the Agreement is \$1,941.70.

7. Shortly before Movant repossessed the Vehicle on May 17, 2018, Debtor's insurance coverage on the Vehicle was cancelled. After the repossession on May 17, 2018, Movant confirmed that Debtor had insurance and the Debtor obtained possession of the Vehicle from Movant.

8. On August 17, 2018, Movant once again repossessed the Vehicle due to Debtor's insurance coverage on the Vehicle cancelling. However, at the time of repossession, Movant had no notice that Debtor had filed for bankruptcy.

9. Shortly after Debtor obtained possession of the Vehicle from Movant, Movant confirmed that Debtor had once again obtained insurance coverage on the Vehicle.

10. Movant and Debtor have reached an agreement regarding payments to be made on the Vehicle, requirements for insurance coverage, and the conditioning of the automatic stay pursuant to the terms and conditions set forth in the proposed agreed order which is attached as Exhibit "B" and is being uploaded in conjunction with the filing of this agreed motion. Movant has agreed to release possession of the Vehicle in return for the protections provided pursuant to the proposed Agreed Order Conditioning Stay.

III. Prayer

WHEREFORE, PREMISES CONSIDERED, Creditor requests that upon consideration of this Agreed Motion, with or without hearing as determined just and appropriate by the Court, the Court enter the proposed Agreed Order Conditioning the Automatic Stay as to 360 Smart Car, Inc. and grant to Movant such other and further relief to which it may be justly entitled.

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Respectfully submitted,

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/s/ Christopher V. Arisco

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Attorneys for Movant

CERTIFICATE OF CONFERENCE

I certify that on September 4, 2018, I exchanged emails with Debtor's counsel, Mark S. Toronjo, regarding the cancellation of the insurance and to discuss the relief requested in this Motion. As set forth by the signature of Debtor's counsel to the proposed Agreed Order Conditioning Stay, Mr. Toronjo is in agreement to the relief requested in this motion.

/s/ Christopher V. Arisco

Christopher V. Arisco

CERTIFICATE OF SERVICE

The undersigned converted the foregoing document into an electronic image, via portable document format (.pdf), electronically submitted same to the Internet web portal for the Clerk of this Court utilizing the Electronic Management and Electronic Case Filing system of the Court, which has caused service, via Simple Mail Transfer Protocol (e-mail), of a Notice of Electronic Filing of this imaged document to the below-identified parties on September 5, 2018, said e-mail provides an attributable hyperlink to the document, in portable document format, except for Debtor(s), and any other entity so identified below or on the EM/ECF filing sheet, whereas in that instance such document was mailed via First Class United States Mail, to-wit:

Ilir Murati 1920 Grassmere Ln., Apt. 1418 Wylie, Texas 75098 <i>Debtor</i>	Mark S. Toronjo 8150 N. Central Expressway, Suite 975 Dallas, Texas 75206 <i>Debtor's Attorney</i>
Carey D. Ebert P.O. Box 94116 Plano, Texas 75094-1166 <i>Chapter 13 Trustee</i>	United States Trustee Office of the U.S. Trustee 110 N. College Ave., Suite 300 Tyler, TX 75702 <i>U.S. Trustee</i>

/s/ Christopher V. Arisco

Christopher V. Arisco